

REMARKS

i. Status of the claims

Claims 1, 4-18, 20-23 are pending. Claims 2, 3, and 19 have been canceled. No claim has been amended. Claim 23 has been added. Claim 23 does not introduce new matter and simply combines the subject matter of claims 1 and 8. Accordingly, Applicant respectfully requests that this new claim be entered.

ii. Reply to Comment 5 of the Advisory Action dated September 2, 2004

The Examiner states that “applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art” and that, therefore, Applicant’s assertion of unexpected low reactogenicity “cannot be the basis for patentability.” Advisory Action at page 2.

Applicant respectfully disagrees. Contrary to the Examiner’s assertion, there is no suggestion in the prior art that sterol is able to reduce the reactogenicity of ionic polysaccharides, such as DEAE-dextran. In fact, the prior art did not even suggest that ionic polysaccharides had any undesirable reactogenic effects on the recipient individual.

Accordingly, without identifying that a problem existed when ionic polysaccharide is used as an adjuvant, the prior art couldn’t possibly have taught or suggested that it would have been desirable to reduce unwanted reactogenicity caused by the ionic polysaccharide.

Furthermore, aside from the examples, Applicant’s specification clearly teaches that the claimed combination neutralizes the “unwanted reactogenicity of DEAE-dextran.” See page 11, lines 20-29. Applicant further redirects the Examiner to subsection iii. at pages 9 and 10 of their paper filed on May 7, 2004, where Applicant relates where in the specification they teach the undesirable effects of ionic polysaccharide adjuvants on reactogenicity.

Applicant respectfully asserts, therefore, that the prior art says nothing about lowering the reactogenicity of the ionic polysaccharide in the claimed combination and that, for this reason, the combination does not “flow naturally” from the prior art.

Accordingly, Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

7 December 2004

By



FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5475
Facsimile: (202) 672-5399

Beth A. Burrous
Attorney for Applicant
Registration No. 35,087